



Virginia  
Regulatory  
Town Hall

## Proposed Regulation Agency Background Document

<b>Agency Name:</b>	Department of Social Services
<b>VAC Chapter Number:</b>	22 VAC 40-41-10
<b>Regulation Title:</b>	Neighborhood Assistance Program
<b>Action Title:</b>	Amend Existing Regulation
<b>Date:</b>	April 18, 2001

This information is required pursuant to the Administrative Process Act (§ 9-6.14:9.1 *et seq.* of the *Code of Virginia*), Executive Order Twenty-Five (98), Executive Order Fifty-Eight (99), and the *Virginia Register Form, Style and Procedure Manual*. Please refer to these sources for more information and other materials required to be submitted in the regulatory review package.

### Summary

*Please provide a brief summary of the proposed new regulation, proposed amendments to an existing regulation, or the regulation proposed to be repealed. There is no need to state each provision or amendment or restate the purpose and intent of the regulation; instead give a summary of the regulatory action and alert the reader to all substantive matters or changes. If applicable, generally describe the existing regulation.*

The Neighborhood Assistance Program regulations describe how non-profit organizations can qualify to become Neighborhood Assistance (NAP) projects. The regulations also describe how tax credits are allocated among the NAP projects and how donations are valued.

These amendments to the regulations reflect changes to the controlling statute over the past several years.

**Basis**

*Please identify the state and/or federal source of legal authority to promulgate the regulation. The discussion of this statutory authority should: 1) describe its scope and the extent to which it is mandatory or discretionary; and 2) include a brief statement relating the content of the statutory authority to the specific regulation. In addition, where applicable, please describe the extent to which proposed changes exceed federal minimum requirements. Full citations of legal authority and, if available, web site addresses for locating the text of the cited authority must be provided. Please state that the Office of the Attorney General has certified that the agency has the statutory authority to promulgate the proposed regulation and that it comports with applicable state and/or federal law.*

Section 63.1-323 of the Code of Virginia authorizes the State Board of Social Services to promulgate regulations for the approval and disapproval of proposals by organizations who seek to be included as NAP projects, and also for determining the value of donations to those organizations. Legislation that passed the 2001 General Assembly requires regulations covering donations by individuals to NAP projects.

These amendments add new sections describing the process for individuals to receive tax credits for cash donations to projects and the value of those tax credits. They also reflect language that allows contracting services to be donated and describes the valuing of those donations.

There are also a couple of "housekeeping" type changes to existing language to correct grammar or make the intent clearer.

The Office of the Attorney General has certified that the Department has the statutory authority to promulgate this regulation and that it comports with applicable state law.

**Purpose**

*Please provide a statement explaining the need for the new or amended regulation. This statement must include the rationale or justification of the proposed regulatory action and detail the specific reasons it is essential to protect the health, safety or welfare of citizens. A statement of a general nature is not acceptable, particular rationales must be explicitly discussed. Please include a discussion of the goals of the proposal and the problems the proposal is intended to solve.*

These amendments are necessary both to meet the statutory requirements that regulations be promulgated for the program, and to provide the public with as much information as possible on all rules and requirements for participants in the program.

The Neighborhood Assistance Program has been changed by legislation every year for at least the past four. This makes it difficult to keep the regulations current. The goal in preparing regulations for this program is to provide as much helpful detail as possible but still allow for the annual changes. This is accomplished by references to sections of the Code that change frequently. For example, rather than put into the regulations the current minimum cash donation

by an individual, reference is made to the minimum stated in "63.1-325.2". It is anticipated that the amount specified in the Code will change again before these regulations make it through the regulatory process. This requires individuals to look at both the regulation and the Code, but it eliminates the confusion that could be caused by a conflict between the two.

The amendments are necessary to ensure that the public has access to current, clear information that will help them make use of this program. Taking advantage of tax credit programs directly impacts a family's welfare in that it affects the amount of taxes they must pay to the state and therefore impacts their disposable income.

## Substance

*Please identify and explain the new substantive provisions, the substantive changes to existing sections, or both where appropriate. Please note that a more detailed discussion is required under the statement providing detail of the regulatory action's changes.*

The amendments add "contracting services" as services that are allowable as a donation eligible for tax credits. Prior to this change, the only services that were allowed were those listed in the Procurement section of the Code of Virginia.

Individuals can now make cash donations to NAP programs in exchange for tax credits. Language was added in several locations to clarify this.

The list of health professionals who can receive tax credits for donations of their professional services was increased. Nurse practitioners, physician's assistants, optometrists, dental hygienists, and pharmacists, were added. These health professionals can use the tax credits they receive for donating their professional services on their individual tax returns. Their donation must be made to a clinic which is an approved NAP project.

## Issues

*Please provide a statement identifying the issues associated with the proposed regulatory action. The term "issues" means: 1) the primary advantages and disadvantages to the public, such as individual private citizens or businesses, of implementing the new or amended provisions; 2) the primary advantages and disadvantages to the agency or the Commonwealth; and 3) other pertinent matters of interest to the regulated community, government officials, and the public. If there are no disadvantages to the public or the Commonwealth, please include a sentence to that effect.*

This regulation makes additional information, beyond that in the Code of Virginia, available to the public to help them understand how the Neighborhood Assistance program operates. The regulation is part of the package that is used in workshops on the program offered around the state.

These amendments are the result of changes to the program made during the General Assembly. The amendments explain the types of services that contractors can provide and receive tax credits for those donations. They also make it clear that individuals can receive a tax credit for their cash donations to NAP projects. In addition, the amendment expands the list of health professionals who can donate their professional services to approved NAP projects and receive tax credits.

The only disadvantage to the public is that the regulations must be as general as possible to prevent their being outdated before the regulatory process is completed. The Neighborhood Assistance Program has been changed by the legislature every year for at least the past four years.

### Fiscal Impact

*Please identify the anticipated fiscal impacts and at a minimum include: (a) the projected cost to the state to implement and enforce the proposed regulation, including (i) fund source / fund detail, (ii) budget activity with a cross-reference to program and subprogram, and (iii) a delineation of one-time versus on-going expenditures; (b) the projected cost of the regulation on localities; (c) a description of the individuals, businesses or other entities that are likely to be affected by the regulation; (d) the agency's best estimate of the number of such entities that will be affected; and e) the projected cost of the regulation for affected individuals, businesses, or other entities.*

The implementation of this regulation will have no additional fiscal impact on the state or localities. There are currently 224 Neighborhood Assistance projects who receive donations from hundreds of donors. This regulation reflects changes in the law that broaden the allowable donations potentially benefiting all projects. The changes also allow individuals, additional health professionals, and businesses offering contracting services to receive tax credits for their donations.

### Detail of Changes

*Please detail any changes, other than strictly editorial changes, that are being proposed. Please detail new substantive provisions, all substantive changes to existing sections, or both where appropriate. This statement should provide a section-by-section description - or cross-walk - of changes implemented by the proposed regulatory action. Where applicable, include citations to the specific sections of an existing regulation being amended and explain the consequences of the proposed changes.*

A definition for "Contracting Services" is being added to 22 VAC 40-41-10.

In 22 VAC 40-41-20 A, "and individuals" are added to the sentence explaining the purpose of the program. This broadens the group who are encouraged to make donations to participating programs to benefit low-income individuals.

The words "approval period" are changed to "program year" in 22 VAC 40-41-20 D. The previous language may have given the impression that organizations could apply at any time to become a NAP project. Organizations apply in May and are approved for the program year.

In 22 VAC 40-41-40 D including sections 1 and 2, words are added to insure that contracting services as well professional services are included. These sections discuss valuing services.

22 VAC 40-41-40 D, 3 has language added to include nurse practioners, physician's assistants, optometrists, dental hygienists, and pharmacists to the paragraph describing how to value donations by health professionals.

22 VAC 40-41-50, this title line was changed from "physicians and dentists" to "health care professionals", to reflect the increased number of individuals in different health care fields who can receive tax credits for donations made under this program.

22 VAC 40-41-50 C, was changed to refect the entire list of health care professionals now allowed to participate.

The change to 22 VAC 40-41-50 D, is a housekeeping measure. The word "Discounting" was changed to "Discounted". This is a grammatical correction.

22 VAC 40-41-50 G, discribes the process for completing and sending a required form to the Department of Social Services. The language was changed to reflect the broader range of participants in the program. The abbreviation NAP was also changed to Neighborhood Assistance project because the abbreviation had not been defined prior to its use in this section.

22 VAC 40-41-50 A-D is a new section that was added to describe the process for donations made by individuals to Neighborhood Assistance projects.

## Alternatives

*Please describe the specific alternatives to the proposal considered and the rationale used by the agency to select the least burdensome or intrusive alternative that meets the essential purpose of the action.*

The only alternative to amending the regulations would be to leave them as they are. The Code of Virginia is the authority for the expansion of the program to include contracting services as donations, and to expand the types of health care professionals who can make donations. It also authorizes the State to give tax credits to individuals. Not making these amendments would leave the regulations incomplete and potentially confusing as individuals would have to figure out what portions have been superceded by changes to the Code of Virginia.

## Public Comment

*Please summarize all public comment received during the NOIRA comment period and provide the agency response.*

No comments were received during the NOIRA comment period.

### Clarity of the Regulation

*Please provide a statement indicating that the agency, through examination of the regulation and relevant public comments, has determined that the regulation is clearly written and easily understandable by the individuals and entities affected.*

The Department has determined that the regulation is clearly written and easily understandable by individuals and entities affected. While there were no comments received on the regulation during the NOIRA comment period, the regulation has been distributed to numerous individuals and the Department has not received any suggestions for clarification or changes. The amendments being added are similar in style and structure to the existing regulation.

### Periodic Review

*Please supply a schedule setting forth when the agency will initiate a review and re-evaluation to determine if the regulation should be continued, amended, or terminated. The specific and measurable regulatory goals should be outlined with this schedule. The review shall take place no later than three years after the proposed regulation is expected to be effective.*

The Department will review this regulation within three years of its implementation to evaluate any need for amendment or termination.

### Family Impact Statement

*Please provide an analysis of the proposed regulatory action that assesses the potential impact on the institution of the family and family stability including the extent to which the regulatory action will: 1) strengthen or erode the authority and rights of parents in the education, nurturing, and supervision of their children; 2) encourage or discourage economic self-sufficiency, self-pride, and the assumption of responsibility for oneself, one's spouse, and one's children and/or elderly parents; 3) strengthen or erode the marital commitment; and 4) increase or decrease disposable family income.*

These regulations reflect legislative changes that increase the incentives for businesses, medical professionals, and individuals to make donations to Neighborhood Assistance projects. These projects help families in many ways from crisis intervention, to job training, education, health care and child care. Any increases in donations to these programs is reflected in improved services to families in need.

For those families who are able and interested in making donations to a Neighborhood Assistance project, the tax credit they receive can impact disposable income.

It is important that anyone looking at the regulation for this program, whether they are a business, health care provider, or individual, find regulations that are complete and up-to-date.

